Approved For Release 2004/05/05 : CIA-RDP81M00980R000700070028-8

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15 December 1978
OLC: 78-836/7

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MEMORANDUM FOR THE RECORD

SUBJECT: Federal Tort Claims Act Amendments (S. 3314 - 95th Congress) (U)

1. The Federal Tort Claims Act Amendments (FTCAA), introduced by the Administration during the 95th Congress, are to be reintroduced early in the 96th. Representatives of the Department of Justice will again be the primary spokesmen for the Administration. (U/IUO)

2. The FTCAA, in addition to other things, extends the tort liability of the Federal Government to the area of Constitutional torts (e.g., Invasion of Privacy) when such torts are committed by Federal employees against U.S. citizens in the legitimate course of such employees' duties. At last drafting, overseas Constitutional torts were included within the bill's scope of coverage, thus including CIA personnel who might, in the scope of their employment, come into inadvertent contact with and violate one or another of the Constitutional rights of American citizens; those rights presuming to be carried with our citizens overseas. (U/IUO)

3. On 14 December 1978, the undersigned spoke separately with Mr. John Seibert, Department of Justice, Civil Division, and Mr. Michael Dolan, Department of Justice, Office of Legislative Affairs. The purpose of the calls was to ensure that CIA amendatory language, which I had provided them during the 95th, was to be included in the new draft of S. 3314 which the Administration intends to introduce during the first session of the 96th. After some discussion regarding the need for subject amendments, Messrs. Seibert and Dolan took from me and agreed to include the tendered amendatory language which appears below. The new draft will be delivered to the Office of Management and Budget on 18 December, thereafter to be distributed to interested Federal agencies for review and comment. (U/IUO)

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SECTION NUMBERS OF FOLLOWING AMENDMENTS RELATE TO S. 3314

Section 7806 (d): The court's review shall be held in camera for matters specifically protected from disclosure by statute, by Executive Order relating to the national security, national defense, or foreign affairs, or in the court's own discretion if it determines that in camera review is necessary.

INSERT FOREGOING IN LIEU OF CURRENT SECTION 7806(d).

Section 7803 (c): After the word witnesses on page 16, line 13 insert...

, however this discretion shall not be construed to provide access by unauthorized persons to information specifically protected from disclosure by statute, or by Executive Order relating to the national security, national defense, or foreign affairs. (U/IUO)

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Assistant Legislative Counsel

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